

REMARKS

Applicants would like to express appreciation to the Examiner for the detailed Official Action provided. Upon entry of the present amendment, claims 1-12 will have been amended, claims 29-30 will have been added, and claims 13-16 will have been canceled. Claims 1-12 and 29-30 are pending in the present application for consideration by the Examiner.

The Examiner has rejected all pending claims (*i.e.*, claims 1-16) under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,158,676 to HUGHES, finding that this reference teaches all limitations of these claims.

Applicants respectfully traverse the Examiner's rejection. Applicants submit that HUGHES, as well as the other references of record, are markedly different from the present claimed invention. Specifically, HUGHES does not disclose an endoscope having at least the claimed treatment instrument channel, as claimed in independent claims 1 and 6. This feature is described in Applicants' specification at, *inter alia*, page 5, first paragraph. Rather, HUGHES is directed to a micro-atomizing device for generating high-speed vortices, for use outside the body. *See, e.g.*, Fig. 11A. Applicants further note that in HUGHES, due to the presence of an adjustment knob 42 on one end of the nozzle body assembly 20, that is used to turn the vortex rod assembly 40, fluid must be introduced at a right angle through the inlet tube 80 (*See* Fig. 2C). Therefore the device of HUGHES cannot be adapted to fit into a treatment instrument channel of an endoscope. It is therefore respectfully submitted that HUGHES, as well as the other references of record, fails to teach or disclose the invention of independent claims 1 and 6, as well as the claims dependent therefrom.

With respect to the Examiner's rejection of dependent claims 2-5 and 7-12, since these

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claims (as well as newly added claims 29-30) are dependent from either allowable independent claim 1 or 6, which are allowable for at least the reasons discussed *supra*, these dependent claims are also allowable for at least these reasons. Further, all dependent claims recite additional features which further define the present invention over the references of record. It is thus respectfully submitted that all rejected claims are patentably distinct from the references of record.

Absent a disclosure in a single reference of each and every element recited in a claim, a *prima facie* case of anticipation cannot be made under 35 U.S.C. § 102. Since the applied reference fails to disclose each and every element recited in independent claims 1 and 6, and the claims dependent therefrom, these claims are not anticipated thereby. Accordingly, the Examiner is respectfully requested to withdraw the rejection under 35 U.S.C. § 102(b).

Thus, Applicants respectfully submit that each and every pending claim of the present application meets the requirements for patentability under 35 U.S.C. § 102, and respectfully requests the Examiner to indicate the allowance of each and every pending claim in the present application.

SUMMARY AND CONCLUSION

In view of the foregoing, it is submitted that the present amendment is in proper form and that none of the references either taken together or taken alone in any proper combination thereof, anticipate or render obvious Applicants' invention. In addition, the applied references of record have been discussed and distinguished, while significant features of the present invention have been pointed out. Accordingly, consideration of the present amendment, reconsideration of the outstanding Official Action and allowance of the present application and all of the claims therein are respectfully requested and are now believed to be appropriate.

Applicant notes that this amendment is being made to advance prosecution of the application to allowance, and with respect to the subject matter argued as deficient in the prior art, should not be considered as surrendering equivalents of the territory between the claims prior to the present amendment and the amended claims. Further, no acquiescence as to the propriety of the Examiner's rejection is made by the present amendment. All other amendments to the claims which have been made in this amendment, and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto. For Example, dependent claims 2-4 have been amended to conform to the recited spray nozzle of independent claim 1, dependent claims 2-5 and 7-12 have been amended to conform to the recited endoscope of independent claims 1 and 6, respectively.

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Should the Examiner have any questions, the Examiner is invited to contact the undersigned
at the telephone number listed below.

Respectfully submitted,
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